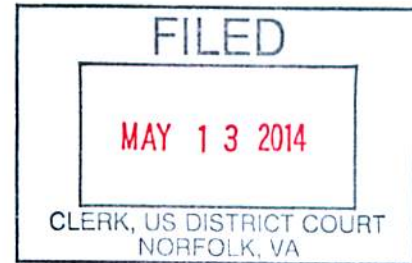


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
(NORFOLK DIVISION)



DIETGOAL INNOVATIONS LLC,	§	
	§	
Plaintiff,	§	Civil Action No. 2:13-cv-00154-RAJ-TEM
v.	§	
	§	Jury Trial Demanded
WEGMANS FOOD MARKETS, INC.,	§	
	§	LEAD CASE
Defendant.	§	

DIETGOAL INNOVATIONS LLC,	§	
	§	
Plaintiff,	§	Civil Action No. 2:14-cv-00143-RAJ-TEM
v.	§	
	§	Jury Trial Demanded
GENERAL MILLS SALES, INC.,	§	
	§	
Defendant.	§	

ORDER

Before the Court is the Motion to Seal (“Defendant’s Motion to Seal”) filed by Defendant General Mills Sales, Inc. (“General Mills”).

After considering the Motion to Seal, Order and related filings, the Court is of the opinion that the Motion to Seal should be granted. It is therefore ORDERED as follows:

1. General Mills has asked to file under seal Exhibits 15 and 16 to the Declaration of Allan A. Kassenoff in Support of Motion to Sever and for an Expedited Trial Schedule (“Certain Exhibits to the Kassenoff Declaration”) as they contain data that is confidential and highly confidential under the Protective Order entered in this matter on January 29, 2013 (Doc. No. 34) (“Protective Order”).

2. There are three requirements for sealing court filings: (1) public notice with an

opportunity to object; (2) consideration of less drastic alternatives; and (3) a statement of specific findings in support of a decision to seal and rejecting alternatives to sealing. *See, e.g., Flexible Benefits Council v. Feltman*, No. 1:08-CV-371, 2008 U.S. Dist. LEXIS 93039 (E.D. Va. Nov. 13, 2008) (citing *Ashcraft v. Conoco, Inc.*, 218 F.3d 282, 288 (4th Cir. 2000)).

3. This Court finds that Certain Exhibits to the Kassenoff Declaration contain data that is confidential and highly confidential under the Protective Order; that public notice has been given, that no objections have been filed; that the public's interest in access is outweighed by the interests in preserving such confidentiality; and that there are no less drastic alternatives that appropriately serve these interests.

4. Specifically, the Court finds the following reasons for sealing the requested pleadings: General Mills contends that Certain Exhibits to the Kassenoff Declaration contain data that has been designated as highly confidential under the Protective Order by Plaintiff. General Mills specifically states as reasons for sealing the requested pleadings that they contain highly confidential business and trade secret information relating to, among other things, pleadings containing highly confidential deposition testimony previously filed under seal in the Texas Court from which this action was transferred, all of which is highly confidential by party designation under the Protective Order. The highly confidential information is not generally known, and, according to Plaintiff, has economic value, and the disclosure of which would cause competitive harm if made widely public.

5. *In camera* copies of Certain Exhibits to the Kassenoff Declaration have been reviewed by the Court. In light of the Protective Order, there appears to be no alternative other than sealing Certain Exhibits to the Kassenoff Declaration.

6. For the sake of consistency with practices governing the case as a whole, Certain

Exhibits to the Kassenoff Declaration shall remain sealed and be treated in accordance with the terms and conditions of the Protective Order.

Accordingly, it is ORDERED that Exhibits 15 and 16 to the Kassenoff Declaration shall be filed under seal. The Court shall retain sealed materials until forty-five (45) days after entry of a final order after appeal.

Entered:

May 14, 2014



United States District Court
Eastern District of Virginia

WE ASK FOR THIS:

/s/ Stephen E. Noona
Stephen E. Noona
Virginia State Bar No. 25367
KAUFMAN & CANOLES, P.C.
150 West Main Street, Suite 2100
Norfolk, Virginia 23510
Telephone: 757-624-3000
Facsimile: 757-624-3169
senoona@kaufcan.com

Scott J. Bornstein (*pro hac vice*)
Allan A. Kassenoff (*pro hac vice*)
Julie P. Bookbinder (*pro hac vice*)
GREENBERG TRAURIG, LLP
Metlife Building
200 Park Avenue
New York, NY 10166
Telephone: 212-801-9200
Facsimile: 212-801-6400
bornsteins@gtlaw.com
kassenoffa@gtlaw.com
bookbinderj@gtlaw.com

Attorneys for Defendant General Mills Sales, Inc.